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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,191	02/02/2004	Michael Schneider	2573-0414	3654
7590	03/09/2005		EXAMINER	
Timothy J. Klima Harbin King & Klima 500 Ninth Street SE Washington, DC 20003			ALI, SHUMAYA B	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

501

Office Action Summary	Application No. 10/768,191	Applicant(s) SCHNEIDER, MICHAEL	
	Examiner Shumaya B. Ali	Art Unit 3743	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/02/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>detailed action</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 recites the limitation "the longitudinal axis" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz US Patent 5,300,000 in view of Stager US Patent 6,592,537 B2

5. **As to claim 1, Schwartz discloses** an exercise sleeve that is weighted and fits on the hand having an elastic woven or knitted fabric (see col.3 lines 6-8), which for a sport (see col.4 lines 9-20) of the kind that is performed using the arm or hand can be secured to the applicable arm or wrist (2) (figure 1 discloses a sleeve 10 wrapped around a wrist) of the person using it by means of a closure (4) (see col.2 lines 15-16), characterized in that the brace (3) includes a plurality of distributed weights (15) (see fig.3 reference object 34), each comprising one housing (16) (mold) (see fig.4 reference object 36) in which a

Art Unit: 3743

plurality of solid particles (18) (lead) (see col.3 lines 28-30) are located, **however does not disclose** "freely movable" solid particles.

6. **As to claim 1, Stager teaches** a device adapted to support a person's wrist while using a computer keyboard (see col.1 lines 6-9) with a flexible pillow connected to a bottom of the wrist band portion with a height adjustable pillow with filler material (rise, metal inside a housing of the pillow. The amount of the filler material controls the height of the wrist. Therefore, smaller height will be achieved by adding small amount of filler material to the housing which will allow the filler material to freely move inside the housing.

7. **Therefore**, it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify the solid particles of Schwartz in view of Stager in order to provide the housing with filler material/solid particles that are freely movable for the purposes of supporting (see col.1 line 8) and releasing fatigue from a person's wrist (see col.1 lines 12-14).

8. **As to claim 2, Schwartz discloses** the sports brace of claim 1, characterized in that the brace (3) is embodied in two-ply form and has a plurality of striplike chambers (13) (the top and bottom layer of the skin, see fig.2 reference objects 18) extending both parallel and transversely to the longitudinal axis (12) of the brace (34, in each of which chambers a plurality of weights (15) (see fig.6 reference object 50) spaced apart from one another are disposed.

9. **As to claim 3, Schwartz discloses** the sports brace of claim 2, characterized in that in each of the striplike chambers (13), one striplike substrate (14) (see fig.6 reference object 52) is disposed, to which the weights (15) spaced apart from one another are secured (see col.3 lines 40-46).

10. **As to claim 4, Schwartz discloses** the sports brace of claim 3, characterized in that the housings (16) of the weights (15) each have the form of a hemisphere and are joined by their flat side (17) to the

corresponding striplike substrate (14). However, applicant has not established criticalities regarding the shape of the housing (see specification, page 3, paragraph 5). In figure 4, weights 34s are within a mold 36 or housing 36. Therefore, the shape of the housing is determined by the shape of the weight, which seems to be hemisphere like in figure 4.

11. **As to claim 5, Schwartz discloses** the sports brace of one of ' claim 1, characterized in that the housings (16) of the weights (15) and/or the striplike substrates (14) are of plastic (vinyl is considered plastic) (see col.3 lines 39-42).

12. **As to claim 6, Schwartz discloses** the sports brace of one of claim 1, characterized in that the solid particles (18) of the weights (15) are of metal, plastic or carbon (lead) (see col.3 lines 41-43).

13. **As to claim 7, Schwartz does not disclose** the sports brace of one of ' claim 1, characterized in that the solid particles (18) of the weights (15) each have a form that is approximated to the spherical shape. However, applicant does not establish criticalities regarding a particular shape of the solid particles. Therefore, it would have been obvious to one of ordinary skills in the art to make the solid particles sphere/circular (as depicted in fig.6 reference objects 50) for obvious design choice.

14. **As to claim 8, Schwartz does not disclose** the sports brace of one of ' claim 1, characterized in that the respective housing (16) of each of the weights (15) is from 50% to 75% filled with solid particles (18). However, Schwartz discloses the volume of the weight can be adjusted (see col.3 lines 46-49) to a desired density required by a wearer. Therefore, it would have been obvious to one of the ordinary skills in the art to make the weight with a desired density of the solid particles, including 50-75% for the purposes of providing a desired weight required by an wearer and creating a hand weight with the greatest potential for freedom of movement by combining maximum resistance (weight) with the possible range of motion while eliminating user's concern over trauma (see col.1 lines 57-61).

15. **As to claim 9, Schwartz discloses** the sports brace of one of ' claim 1, characterized in that a hook-and-loop closure is provided as the closure (4) of the brace (3) (see col.3 lines 1-6).

16. **As to claim 10, Schwartz discloses** The sports brace of one of claim 2, characterized in that the housings (16) of the weights (15) and/or the striplike substrates (14) are of plastic (see col.3 lines 39-42) (vinyl is considered plastic) (see col.3 liens 39-42).

17. **As to claim 11, Schwartz discloses** the sports brace of one of claim 3, characterized in that the housings (16) of the weights (15) and/or the striplike substrates (14) are of plastic (vinyl is considered plastic) (see col.3 liens 39-42).

18. **As to claim 12, Schwartz discloses** the sports brace of one of claim 4, characterized in that the housings (16) of the weights (15) and/or the striplike substrates (14) are of plastic (vinyl is considered plastic) (see col.3 liens 39-42).

19. **As to claim 13, Schwartz discloses** the sports brace of one of claim 2, characterized in that the solid particles (18) of the weights (15) are of metal, plastic or carbon (see col.3 lines 41-43).

20. **As to claim 14, Schwartz discloses** the sports brace of one of claim 3, characterized in that the solid particles (18) of the weights (15) are of metal, plastic or carbon (see col.3 lines 41-43).

21. **As to claim 15, Schwartz discloses** he sports brace of one of claim 4, characterized in that the solid particles (18) of the weights (15) are of metal, plastic or carbon (see col.3 lines 41-43).

22. **As to claim 16, Schwartz discloses** the sports brace of one of claim 5, characterized in that the solid particles (18) of the weights (15) are of metal, plastic or carbon (see col.3 lines 41-43).

23. **As to claim 17, Schwartz discloses** the sports brace of one of claim 2, characterized in that the solid particles (18) of the weights (15) each have a form that is approximated to the spherical shape.

However, applicant does not establish criticalities regarding a particular shape of the solid particles.

Therefore, it would have been obvious to one of ordinary skills in the art to make the solid particles sphere/circular (as depicted in fig.6 reference objects 50) for obvious design choice.

24. **As to claim 18, Schwartz discloses** the sports brace of one of claim 3, characterized in that the solid particles (18) of the weights (15) each have a form that is approximated to the spherical shape.

However, applicant does not establish criticalities regarding a particular shape of the solid particles.

Therefore, it would have been obvious to one of ordinary skills in the art to make the solid particles sphere/circular (as depicted in fig.6 reference objects 50) for obvious design choice.

25. **As to claim 19, Schwartz discloses** the sports brace of one of claim 4, characterized in that the solid particles (18) of the weights (15) each have a form that is approximated to the spherical shape.

However, applicant does not establish criticalities regarding a particular shape of the solid particles.

Therefore, it would have been obvious to one of ordinary skills in the art to make the solid particles sphere/circular (as depicted in fig.6 reference objects 50) for obvious design choice.

26. **As to claim 20, Schwartz discloses** The sports brace of one of claim 5, characterized in that the solid particles (18) of the weights (15) each have a form that is approximated to the spherical shape.

However, applicant does not establish criticalities regarding a particular shape of the solid particles.

Therefore, it would have been obvious to one of ordinary skills in the art to make the solid particles sphere/circular (as depicted in fig.6 reference objects 50) for obvious design choice.

Claim Objections

27. Claim 2 is objected to because of the following informalities: claimed limitation "the longitudinal axis" lacks proper antecedent basis. Appropriate correction is required.

Drawings

28. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "longitudinal axis (12)" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

29. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Priority

30. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 2/1/2003. It is noted, however, that applicant has not filed a certified copy of the DE20301530.4 application as required by 35 U.S.C. 119(b).

Conclusion

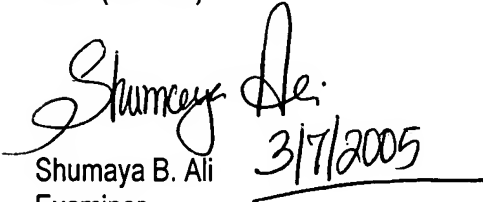
Art Unit: 3743

31. The prior art made of record on form PTO-892 and not relied upon shows weighted wrist/hand brace.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Shumaya B. Ali** whose telephone number is **571-272-6088**. The examiner can normally be reached on M-F 8:30 am-4: 30 pm.

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Henry Bennett** can be reached on **571-272-4791**. The fax phone number for the organization where this application or proceeding is assigned is 571-273-6088.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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